

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

United States of America

v.

Antwon Demetrius Peacock

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Case No: 5:08-CR-82-1BR

USM No: 51112-056

Date of Original Judgment: December 1, 2008

Date of Previous Amended Judgment: _____

(Use Date of Last Amended Judgment if Any)

Sherri R. Alsbaugh

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(1)(B)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(1)(B) for a modification of an imposed term of imprisonment to the extent otherwise expressly permitted by statute and as provided by Section 404 of the First Step Act of 2018, and having considered such motion, and taking into account the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☐ DENIED. ☒ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 205 months is reduced to 148 months on Count 1.

(Complete Parts I and II of Page 2 when motion is granted)

In 2008, defendant was charged with, and convicted of, conspiracy to distribute and possess with the intent to distribute more than 50 grams of cocaine base in violation of 21 U.S.C. § 846 (Count 1). At the time of sentencing, the statutory penalties for that offense were not less than 10 years no more than life imprisonment and 5 years to life supervised release. Subsequently, the Fair Sentencing Act of 2010 modified those penalties to not less than 5 years nor more than 40 years imprisonment and 4 years to life supervised release. Accordingly, the court concludes that defendant is eligible for relief under the First Step Act of 2018. See *United States v. Davis*, No 07-CR-245S(1), 2019 WL 1054554, at *2 (W.D.N.Y. Mar. 5, 2019). Although defendant is eligible for relief, he is not entitled to plenary resentencing. *Id.*

Count 3 remains 120 months, concurrent. The term of supervised release in Count 1 is reduced to 4 years, concurrent with the 3-year term in Count 3.

If the amount of time the defendant has already served exceeds this sentence, the sentence is reduced to a "Time Served" sentence, subject to an additional period of up to ten (10) days for administrative purposes of releasing the defendant.

Except as otherwise provided, all provisions of the judgment(s) dated December 1, 2008, shall remain in effect. **IT IS SO ORDERED.**

Order Date: 5/23/2019



Effective Date: _____
(if different from order date)

W. Earl Britt Senior U.S. District Judge

Printed name and title